

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 95-0372 CSET  
Controlled Substance Excise Tax  
For Tax Periods: 1995**

**NOTICE:** Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

**1. CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION**

**Authority:** IC 6-7-3-5

Taxpayer protests the assessment of Controlled Substance Excise Tax.

**STATEMENT OF FACTS**

Taxpayer was arrested on March 8, 1995 for possession of marijuana, dealing in marijuana, possession of cocaine and maintaining a public nuisance. The Indiana Department of Revenue issued a record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on May 11, 1995 in the total amount of \$35,360.00. Taxpayer filed a protest to the assessment on June 6, 1995. A hearing on the protest was scheduled for 10:00 a.m. on September 16, 1998. Taxpayer was notified of the hearing at his last known address. Taxpayer did not appear for the hearing. Further facts will be provided as necessary.

## **Controlled Substance Excise Tax-Imposition**

### **DISCUSSION**

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the delivery and possession of marijuana and cocaine in the State of Indiana. Police statements, the arrest report, Taxpayer's voluntary statement at the time of the arrest and the property inventory indicate that Taxpayer was in possession of marijuana and cocaine. Taxpayer has the burden of proving that the information in the file and assessment are incorrect. Since Taxpayer did not appear at the hearing or offer any written information in lieu of a hearing, the Department must rely on the contents of the file in making a decision on the matter. Therefore, the tax properly applies to Taxpayer in this situation.

### **FINDING**

Taxpayer's protest is denied.